

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

MARIA CARROLL,

Petitioner-Appellant,

v

SPRING LAKE TOWNSHIP,

Respondent-Appellee.

---

UNPUBLISHED  
December 12, 2017

No. 336636  
Tax Tribunal  
LC No. 16-000046-TT

Before: MARKEY, P.J., and HOEKSTRA and RONAYNE KRAUSE, JJ.

PER CURIAM.

Petitioner, Maria Carroll, appeals by right the December 6, 2016, final opinion and judgment of the Michigan Tax Tribunal (MTT) affirming respondent's denial of petitioner's application for a poverty exemption under MCL 211.7u for the tax year 2015. We affirm.

**A. SUMMARY OF FACTS AND PROCEEDINGS**

Petitioner submitted to respondent's December 2015 board of review an application for a hardship exemption for 2015 property taxes on her personal residence. Her application disclosed monthly Social Security income of \$1128 or \$13,536 annually, a \$550 bank account, a 1989 Jeep Wrangler of unspecified value, and a 1974 pontoon boat valued at \$1,000. Respondent's board of review denied petitioner's hardship application.

On January 8, 2016, petitioner submitted an appeal to the small claims division of the MTT. Petitioner's grounds for the appeal were that she did not have enough income to meet all her expenses. Respondent answered the appeal stating that petitioner's hardship application was denied because petitioner was over the (annual income) threshold, did not provide proof of her income, and failed to include all her expenses. Respondent also attached the federal poverty guidelines that respondent's governing board had adopted showing that the poverty annual income level for a 1 person family unit was \$11,670. The MTT held a hearing on the appeal on August 26, 2016, and the hearing officer issued a proposed opinion and judgment on October 4, 2016. Generally, no verbatim record is created for small claims appeals. See MCL 205.762(2); Mich Admin Code, R 792.10265(1) ("A formal transcript shall not be taken for any contested case conducted in the small claims division, unless otherwise provided by the tribunal.").

The hearing officer's proposed opinion and judgment provided that petitioner's "property shall not be granted a poverty exemption for the 2015 tax year." Based on the testimony and exhibits submitted, the hearing officer made findings of fact, in pertinent part, as follows:

7. Petitioner's annual household income pursuant to MCL 211.7u for the year at issue is \$13,536.
8. Petitioner received \$1,128 per month from social security in 2014, for a household income of \$13,536.
9. The "federal poverty guidelines" adopted by Respondent for the subject household for the tax year at issue provide for an income level of \$11,670.
10. Respondent has adopted an "asset test" that provides for the maximum value household assets of \$1,500.
11. The value of Petitioner's household assets is \$1,000.
12. Petitioner's ex-husband paid all of Petitioner's property taxes and paid Petitioner's boat docking fee in 2014 and 2015 at \$600 per year.
13. Petitioner estimated her medical expenses to be approximately \$500 in 2014 and \$500 in 2015.

The hearing officer also found: "Petitioner did not present any other substantial and compelling reasons for the Tribunal to deviate from the [respondent's] income guidelines."

On October 13, 2016, the MTT received petitioner's letter of exceptions to the proposed opinion and judgment, which stated that there was a "a huge misunderstanding" about payments petitioner's ex-husband made on her behalf, that the "process is all new to me" and "confusing," and that she did not realize she could have taken her case to respondent's March board of review.

On December 6, 2016, Judge Steven Lasher issued the MTT's final opinion and judgment, which concluded that the hearing officer "properly considered the testimony and evidence submitted" to it, and properly issued the proposed opinion and judgment because petitioner's income was over the threshold and because she was receiving additional support from her ex-husband. Judge Lasher also found that petitioner had not "presented any substantial and compelling reasons to support deviating from [respondent's] income guidelines" and that petitioner had "failed to show good cause to justify the modifying of the Proposed Opinion and Judgment or the granting of a rehearing." See MCL 205.762(2).<sup>1</sup> Consequently, the MTT adopted the proposed opinion and judgment as its final opinion and judgment.

---

<sup>1</sup> This subsection provides in part: "The tribunal shall review the exceptions to determine if the proposed order shall be adopted as a final order. Upon a showing of good cause or at the

On December 13, 2016, the MTT received petitioner's letter of exceptions to the final opinion and judgment. Petitioner argued that she was just over the poverty income limit and that perhaps she qualified for a 50% tax reduction that respondent's representative mentioned at the August 26, 2016 hearing. The MTT treated petitioner's letter of exceptions as a motion for reconsideration.

On January 10, 2017, the MTT issued its order denying petitioner's motion for reconsideration because petitioner was "merely restating the arguments previously presented." Additionally, we see nothing in the record that reflected that respondent had ever adopted guidelines for granting a 50% tax exemption such as petitioner requested. Thus, although partial exemptions were possible under MCL 211.7u, the tribunal could not grant the relief requested.

In her appeal by right to this Court, petitioner asserts that the MTT erred by denying her a partial tax exemption where respondent had no policy or guidelines for partial exemptions. Petitioner's second issue appears to be a variation of her first when she argues that the MTT, when denying reconsideration, made conflicting statements whether respondent had guidelines in place for partial tax exemptions. Petitioner asserts that the MTT statements were "non sequential." Although not clear, it appears that petitioner is arguing that the MTT erred by not recognizing and applying the provisions of MCL 211.7u(4) & (5), which read as follows:

(4) The governing body of the local assessing unit shall determine and make available to the public the policy and guidelines the local assessing unit uses for the granting of exemptions under this section. The guidelines shall include but not be limited to the specific income and asset levels of the claimant and total household income and assets.

(5) The board of review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.

Respondent argues that it complied with subsections (4) and (5) by adopting federal poverty guidelines and liquid asset levels of no more than \$1,500 to qualify for a hardship exemption, as the hearing officer confirmed in its findings of fact. Petitioner's annual income of \$13,536 exceeded the established poverty guideline for a one-person household of \$11,670. Thus, the board of review was required to deny petitioner's hardship application, absent finding substantial and compelling reasons to deviate from the policy. But no reasons to deviate were presented where the evidence showed petitioner received, in addition to social security income, assistance from her ex-husband, and also petitioner had access to an undisclosed amount of income from a retirement account. Respondent asserts that it has not adopted a policy allowing

---

tribunal's discretion, the tribunal may modify the proposed order and issue a final order or hold a rehearing by a tribunal member."

for a partial exemption under MCL 211.7u and that petitioner's argument in this regard is based on her misunderstanding of testimony presented at the August 26, 2016 hearing.

## B. STANDARD OF REVIEW

This Court's review of Tax Tribunal decisions is very limited. *Drew v Cass Co*, 299 Mich App 495, 498; 830 NW2d 832 (2013). "In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation." Const 1963, art 6, § 28. "Factual findings of the Tax Tribunal are final if they are supported by competent, material, and substantial evidence on the whole record." *Superior Hotels, LLC v Mackinaw Twp*, 282 Mich App 621, 628; 765 NW2d 31 (2009). Substantial evidence means more than a scintilla of evidence, but may be substantially less than a preponderance of the evidence. *Drew*, 299 Mich App at 499. When the facts are not disputed and fraud is not alleged, this Court's review is limited to whether the Tax Tribunal made an error of law or adopted the wrong legal principles. *Superior Hotels*, 282 Mich App at 628.

The appellant bears the burden of proof in an appeal of a decision of the Tax Tribunal. *Drew*, 299 Mich App at 499. Pertinent to this case, tax exemptions are strictly construed in favor of the taxing authority; petitioner has the burden of proving by a preponderance of the evidence that she is entitled to the requested exemption. *Spranger v City of Warren*, 308 Mich App 477, 479; 865 NW2d 52, (2014)(citations omitted).

## C. DISCUSSION

The MCL 211.7u, which establishes the poverty exemption at issue, provides:

(1) The principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation under this act. This section does not apply to the property of a corporation. [MCL 211.7u(1).]

Subsection 2 of MCL 211.7u sets forth several criteria that an applicant must satisfy to qualify for this poverty exemption, including,

(e) Meet the federal poverty guidelines updated annually in the federal register by the United States department of health and human services under authority of section 673 of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 USC 9902, or alternative guidelines adopted by the governing body of the local assessing unit provided the alternative guidelines do not provide income eligibility requirements less than the federal guidelines. [MCL 211.7u(2)(e).]

Thus, under MCL 211.7u(2)(e), although a local governing unit may adopt alternative poverty standards, the alternative standards may not be less than the federal standards. In this case, respondent adopted the federal poverty annual income standards and also asset levels to qualify for a hardship exemption. The undisputed facts show that petitioner failed to meet the

adopted federal poverty standard to qualify for a hardship exemption. Moreover, respondents determination that petitioner had not provided substantial and compelling reasons, MCL 211.7u(5), for deviating from the guidelines was supported by competent, material, and substantial evidence on the whole record. Nothing in the record supports that respondent or the Tax Tribunal made an error of law in that regard. In sum, petitioner has not met her burden of proof that she was entitled to a hardship exemption or that respondent or the tribunal made an error of law. *Spranger*, 308 Mich App at 479; *Superior Hotels*, 282 Mich App at 628.

Last, petitioner's argument that the Tax Tribunal erred by not granting her a partial hardship exemption must fail. Petitioner did not even put forth such a request until her motion for reconsideration of the tribunal's final opinion and judgment. Nothing in the record even supports that respondent offered the possibility of a partial hardship exemption, although the language of MCL 211.7u(1) providing for "exemption in whole or in part from taxation" would permit partial exemptions. Respondent's recollection of testimony at the August 2016 hearing before the MTT hearing officer is not part of the record. Thus, petitioner has not met her burden of proving that she was entitled to a hardship exemption or that respondent or the tribunal made an error of law. *Spranger*, 308 Mich App at 479; *Superior Hotels*, 282 Mich App at 628.

We affirm.

/s/ Jane E. Markey  
/s/ Joel P. Hoekstra  
/s/ Amy Ronayne Krause